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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
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MANNING, JOHN

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/768,951	<b>Applicant(s)</b> RAFEY ET AL.	
	<b>Examiner</b> John Manning	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 and 10-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granger (US Pat No 5,483,277) in view of Sezan et al. (US Pat No 6,236,395).

In regard to claim 1, Granger discloses a simplified set-top converter for a broadband switched network with a removable tuner. The claimed limitation of "a base station" is met by Item 302 of Figure 6 and 7. The claimed limitation of "an electronic media element, the electronic media element including a dedicated tuner for receiving a broadcast signal" is met by Item 300 of Figure 6 and 7. Granger fails to explicitly disclose "comprising memory for storing a user profile that provides the viewing preferences of a user, the base station configured to send the user profile to a new electronic media element, to replace the user profile in the memory with a user profile modified with information in the new electronic media element and to provide a video signal to a display device" and "the electronic media element further including a local

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storage element for storing at least a portion of the user profile, and a processing element operative to generate the video signal provided to the display device by modifying the display characteristics of the broadcast signal in response to the user profile, wherein the video signal display characteristics are anonymously modified by the user profile". Sezan teaches a "base" comprising memory for storing a user profile and a modular memory also storing a user profile separate from the base so as to allow the system select programs that may be of interest to the user and to make the profile of the user portable. "The explicit definition of the particular programs or attributes related thereto permits the system 16 to select those programs from the information contained within the available program description schemes 18 that may be of interest to the user" (Col 5, Line 46-50). "User description scheme information is persistent but can be updated by the user or by an intelligent software agent on behalf of the user at any arbitrary time. It may also be disabled by the user, at any time, if the user decides to do so. In addition, the user description scheme is modular and portable so that users can carry or port it from one device to another, such as with a handheld electronic device or smart card or transported over a network connecting multiple devices. When user description scheme is standardized among different manufacturers or products, user preferences become portable. For example, a user can personalize the television receiver in a hotel room permitting users to access information they prefer at any time and anywhere" (Col 5, Lines 66-67; Col 6, Lines 1-12). Consequently, it would have been obvious to one of ordinary skill in the art to modify Granger with a "base"

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comprising memory for storing a user profile and a modular memory also storing a user profile separate from the base for the stated advantage.

In regard to claim 2, the claimed limitation that "the electronic media element is a service cartridge including a detection element, the service cartridge having a unique identifier associated therewith stored in the local storage element wherein the display characteristics of the video signal are modified upon detection of the unique identifier of the service cartridge" is met by Figures 1-3. "In addition, the user description scheme is modular and portable so that users can carry or port it from one device to another, such as with a handheld electronic device or smart card or transported over a network connecting multiple devices" (Col 6, Lines 3-7).

In regard to claim 3, the claimed limitation that "the broadcast signal is maintained in the local memory and modified in response to the user profile before the video signal is provided to the display device" is met by Figures 1-3. "The generation module 44 and the analysis module 42 provide data to a data storage unit 50. The storage unit 50 may be any storage device, such as memory or magnetic media" (Col 9, Lines 5-8). "An intelligent software agent is preferably included within the SFB module 52 that gathers and provides user specific information to the generation module 44 to be used in authoring and updating the user description scheme (through the generation module 44). In this manner, desirable content may be provided to the user through a display 80. The selections of the desired program(s) to be retrieved, stored, and/or viewed may be programmed, at least in part, through a graphical user interface 82" (Col 9, 15-26).

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In regard to claim 4, the “selection of a particular program analysis technique depends on the amount of readily available data and the user preferences. For example, if a user prefers to watch a 5 minute video highlight of a particular program, such as a basketball game, the analysis module 42 may invoke a knowledge based system 90 (FIG. 3) to determine the highlights that form the best 5 minute summary” (Col 8, Lines 30-36). The broadcast is reorganized by removing segments in order to create a customized summery based on the user profile.

In regard to claim 5, the claimed limitation that “the user profile is accessed and modified upon detection of the unique identifier of a new service cartridge” is met Figures 1-2. “In addition, the user description scheme is modular and portable so that users can carry or port it from one device to another, such as with a handheld electronic device or smart card or transported over a network connecting multiple devices” (Col 6, Lines 3-7).

In regard to claims 6 and 7, the combined teaching discloses the use of a tuner operative to receive a specific broadcast signal. The reference fails to explicitly disclose the use of a plurality of tuners with storage elements. However, the examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to use a plurality of tuners with storage elements so as concurrently receive multiple broadcast signals and store the signals for later use. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with a plurality of tuners with storage elements so as concurrently receive multiple broadcast signals and store the signals for later use.

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In regard to claim 10, the combined teaching discloses that the program description (the metadata) is provided as a service. The reference fails to explicitly disclose charging the user a fee for the service. However, the examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to charge a fee for the use of a service so as to generate revenue. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with charging the user a fee for the service so as to generate revenue.

In regard to claim 11, the claimed limitation of "a tuner dedicated to receive a broadcast signal having a predetermined frequency range" is met by Figure 2. "The program 38 may originate at any suitable source, such as for example broadcast television, cable television, satellite television, digital television, Internet broadcasts, world wide web, digital video discs, still images, video cameras, laser discs, magnetic media, computer hard drive, video tape, audio tape, data services, radio broadcasts, and microwave communications" (Col 7, Lines 56-63). Further, the "system 16 may include any device(s) suitable to receive any one or more of such programs 38" (Col 8, Lines 9-10). A broadcast tuner inherently has a predetermined frequency range. The claimed limitation of "an adapter, coupled to the tuner, operative to provide a video signal to a display device" is met by Figure 2, item 52. The search and filtering and browsing module 52 provides the display with the video signal. The claimed limitations "a local memory operative to store the broadcast signal, the local memory further storing at least a portion of a modifiable user profile and a unique identifier of the media element, the user profile including the viewing and additional preferences of the user"

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and “an electronic component operative to generate the video signal by modifying the characteristics of the broadcast signal in response to the user profile, wherein the video display characteristics are anonymously modified by the user profile” are met by Figure 1-3. “The user description scheme 20 preferably includes the user's personal preferences, and information regarding the user's viewing history such as for example browsing history, filtering history, searching history, and device setting history” (Col 5, Lines 37-40). Further, the “User description scheme information is persistent but can be updated by the user or by an intelligent software agent on behalf of the user at any arbitrary time” (Col 5, Lines 66-67; Col 6, Line 1). “The generation module 44 and the analysis module 42 provide data to a data storage unit 50. The storage unit 50 may be any storage device, such as memory or magnetic media” (Col 9, Lines 5-8). Further still, “An intelligent software agent is preferably included within the SFB module 52 that gathers and provides user specific information to the generation module 44 to be used in authoring and updating the user description scheme (through the generation module 44). In this manner, desirable content may be provided to the user through a display 80. The selections of the desired program(s) to be retrieved, stored, and/or viewed may be programmed, at least in part, through a graphical user interface 82” (Col 9, 15-26).

In regard to claim 12-14, the claimed limitation of “metadata is associated to identify segments of the broadcast signal and the viewing order of the segments is reorganized in response to the user profile” is met Figures 1-3. “The descriptors of the program description scheme and the user description scheme should overlap, at least partially, so that potential desirability of the program can be determined by comparing



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descriptors representative of the same information" (Col 6, Lines 39-43). The "selection of a particular program analysis technique depends on the amount of readily available data and the user preferences. For example, if a user prefers to watch a 5 minute video highlight of a particular program, such as a basketball game, the analysis module 42 may invoke a knowledge based system 90 (FIG. 3) to determine the highlights that form the best 5 minute summary" (Col 8, Lines 30-36). The broadcast is reorganized by removing segments in order to create a customized summery based on the user profile.

In regard to claim 15, the combined teaching discloses the use of a tuner operative to receive a specific broadcast signal. The reference fails to explicitly disclose the use of a plurality of tuners with storage elements. However, the examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to use a plurality of tuners with storage elements so as concurrently receive multiple broadcast signals and store the signals for later use. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with a plurality of tuners with storage elements so as concurrently receive multiple broadcast signals and store the signals for later use.

In regard to claim 16, Sezan discloses that the system may be used with a plurality of media elements. "The program 38 may originate at any suitable source, such as for example broadcast television, cable television, satellite television, digital television, Internet broadcasts, world wide web, digital video discs, still images, video cameras, laser discs, magnetic media, computer hard drive, video tape, audio tape, data services, radio broadcasts, and microwave communications" (Col 7, Lines 56-62).

In regard to claim 17, the claimed limitation that "the unique identifier is stored in the local memory, the unique identifier information being detected by the detection unit such that the use profile is modified in response to the detection of the unique identifier" is met by Figure 1-3. "In addition, the user description scheme is modular and portable so that users can carry or port it from one device to another, such as with a handheld electronic device or smart card or transported over a network connecting multiple devices" (Col 6, Lines 3-7). "The user currently has to customize each of the devices for optimal viewing and/or listening preferences. By storing the user preferences on a removable storage device, such as a smart card, the user may insert the card including the user preferences into such media devices for automatic customization" (Col 10, Lines 41-45).

In regard to claim 18, the claimed limitation that "the user profile is modified based on the information present in the newly detected media element" is met by Figure 1-3. "The user description scheme is generated by direct user input, and by using a software that watches the user to determine his/her usage pattern and usage history. User description scheme can be updated in a dynamic fashion by the user or automatically. A well defined and structured description scheme design allows different devices to interoperate with each other. A modular design also provides portability" (Col 11, Lines 43-50).

In regard to claim 19, the claimed steps of "(a) creating a user profile by providing an initial set of viewing preferences" and "(b) modifying the user profile created in step (a) through the installation of a new dedicated electronic media device into the viewing

system” is met by Figure 1-3. “The user description scheme is generated by direct user input, and by using a software that watches the user to determine his/her usage pattern and usage history. User description scheme can be updated in a dynamic fashion by the user or automatically. A well defined and structured description scheme design allows different devices to interoperate with each other. A modular design also provides portability” (Col 11, Lines 43-50).

In regard to claim 20, the claimed step of “the dedicated electronic media device of step (b) includes a unique identifier stored therein which automatically modifies the user profile based on the information contained therein” is met by Figure 1-3. “In addition, the user description scheme is modular and portable so that users can carry or port it from one device to another, such as with a handheld electronic device or smart card or transported over a network connecting multiple devices” (Col 6, Lines 3-7). The user description scheme acts as a unique identifier.

In regard to claim 21, the recited steps are met by Figures 1-3. “In addition, the user description scheme is modular and portable so that users can carry or port it from one device to another, such as with a handheld electronic device or smart card or transported over a network connecting multiple devices” (Col 6, Lines 3-7). “The user currently has to customize each of the devices for optimal viewing and/or listening preferences. By storing the user preferences on a removable storage device, such as a smart card, the user may insert the card including the user preferences into such media devices for automatic customization” (Col 10, Lines 41-45). “The user description scheme is generated by direct user input, and by using a software that watches the user

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to determine his/her usage pattern and usage history. User description scheme can be updated in a dynamic fashion by the user or automatically. A well defined and structured description scheme design allows different devices to interoperate with each other. A modular design also provides portability" (Col 11, Lines 43-50).

4. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granger in view of Sezan et al. and further in view of Beach et al. (US Pat No 6,728,713).

In regard to claim 8, the combined teaching discloses an audiovisual information management system. The reference fails to explicitly disclose the electronic purchase through a communications link and the tracking of purchases made by the user. The Beach reference teaches a communications link (Figure 1, Item 104 and 109) and the tracking of purchases made by the use so as to organize information for the user. "The invention describes a system which is fully distributed, in that calculations pertaining to an individual viewer are performed personally for that viewer within a local client device, while providing for the reliable aggregation and dissemination of information concerning viewing habits, preferences or purchases" (Col 4, Lines 52-56). Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with a communications link and the tracking of purchases made by the use so as to organize information for the user.

In regard to claim 9, the Beach reference discloses marinating the tracked purchases in a profile. "The invention describes a system which is fully distributed, in that calculations pertaining to an individual viewer are performed personally for that

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viewer within a local client device, while providing for the reliable aggregation and dissemination of information concerning viewing habits, preferences or purchases" (Col 4, Lines 52-56).

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM

May 23, 2005



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